



HB 0707

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A bill to be entitled
 An act relating to homicide of an unborn quick child;
 defining the term "unborn quick child"; amending s.
 316.193, F.S.; including the death of an unborn quick
 child under DUI manslaughter; amending s. 782.071, F.S.;
 making the killing of an unborn quick child rather than
 the killing of a viable fetus a "vehicular homicide";
 deleting a provision describing the viability of a fetus;
 amending s. 782.09, F.S.; providing that killing an unborn
 quick child by injury to the mother which would be murder
 in any degree if it resulted in the death of the mother is
 murder in the same degree; providing penalties; providing
 that the unlawful killing of an unborn quick child by
 injury to the mother which would be manslaughter if it
 resulted in the death of the mother is manslaughter;
 providing penalties; providing that the death of the
 mother does not bar prosecution under specified
 circumstances; providing that the section does not
 authorize prosecution of a person in connection with a
 termination of pregnancy; amending s. 921.0022, F.S.,
 relating to the Criminal Punishment Code offense severity
 ranking chart; conforming provisions to changes made by
 the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Definition.--For the purposes of this act, the
term "unborn quick child" means the unborn child of a pregnant
woman which has developed to the point of maturity at which its
movements can be felt in its mother, or at which the unborn



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31 child becomes capable of meaningful life outside the womb
 32 through standard medical measures.

33 Section 2. Subsection (3) of section 316.193, Florida
 34 Statutes, is amended to read:

35 316.193 Driving under the influence; penalties.--

36 (3) Any person:

37 (a) Who is in violation of subsection (1);

38 (b) Who operates a vehicle; and

39 (c) Who, by reason of such operation, causes or
 40 contributes to causing:

41 1. Damage to the property or person of another commits a
 42 misdemeanor of the first degree, punishable as provided in s.
 43 775.082 or s. 775.083.

44 2. Serious bodily injury to another, as defined in s.
 45 316.1933, commits a felony of the third degree, punishable as
 46 provided in s. 775.082, s. 775.083, or s. 775.084.

47 3. The death of any human being or unborn quick child
 48 commits DUI manslaughter, and commits:

49 a. A felony of the second degree, punishable as provided
 50 in s. 775.082, s. 775.083, or s. 775.084.

51 b. A felony of the first degree, punishable as provided in
 52 s. 775.082, s. 775.083, or s. 775.084, if:

53 (I) At the time of the crash, the person knew, or should
 54 have known, that the crash occurred; and

55 (II) The person failed to give information and render aid
 56 as required by s. 316.062.

57 Section 3. Section 782.071, Florida Statutes, is amended
 58 to read:

59 782.071 Vehicular homicide.--"Vehicular homicide" is the
 60 killing of a human being, or the killing of an unborn quick



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61 child ~~a viable fetus~~ by any injury to the mother, caused by the
 62 operation of a motor vehicle by another in a reckless manner
 63 likely to cause the death of, or great bodily harm to, another.

64 (1) Vehicular homicide is:

65 (a) A felony of the second degree, punishable as provided
 66 in s. 775.082, s. 775.083, or s. 775.084.

67 (b) A felony of the first degree, punishable as provided
 68 in s. 775.082, s. 775.083, or s. 775.084, if:

69 1. At the time of the accident, the person knew, or should
 70 have known, that the accident occurred; and

71 2. The person failed to give information and render aid as
 72 required by s. 316.062.

73

74 This paragraph does not require that the person knew that the
 75 accident resulted in injury or death.

76 ~~(2) For purposes of this section, a fetus is viable when~~
 77 ~~it becomes capable of meaningful life outside the womb through~~
 78 ~~standard medical measures.~~

79 (2)~~(3)~~ A right of action for civil damages shall exist
 80 under s. 768.19, under all circumstances, for all deaths
 81 described in this section.

82 (3)~~(4)~~ In addition to any other punishment, the court may
 83 order the person to serve 120 community service hours in a
 84 trauma center or hospital that regularly receives victims of
 85 vehicle accidents, under the supervision of a registered nurse,
 86 an emergency room physician, or an emergency medical technician
 87 pursuant to a voluntary community service program operated by
 88 the trauma center or hospital.

89 Section 4. Section 782.09, Florida Statutes, is amended to
 90 read:



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91 782.09 Killing of unborn quick child by injury to
 92 mother.--

93 (1) The unlawful ~~willful~~ killing of an unborn quick child,
 94 by any injury to the mother of such child which would be murder
 95 if it resulted in the death of such mother, shall be deemed
 96 murder in the same degree as that which would have been
 97 committed against the mother. A person who unlawfully kills an
 98 unborn quick child by any injury to the mother:

99 (a) Which would be murder in the first degree constituting
 100 a capital felony if it resulted in the mother's death commits
 101 murder in the first degree constituting a capital felony,
 102 punishable as provided in s. 775.082.

103 (b) Which would be murder in the second degree if it
 104 resulted in the mother's death commits murder in the second
 105 degree, a felony of the first degree, punishable as provided in
 106 s. 775.082, s. 775.083, or s. 775.084.

107 (c) Which would be murder in the third degree if it
 108 resulted in the mother's death commits murder in the third
 109 degree ~~manslaughter~~, a felony of the second degree, punishable
 110 as provided in s. 775.082, s. 775.083, or s. 775.084.

111 (2) The unlawful killing of an unborn quick child by any
 112 injury to the mother of such child which would be manslaughter
 113 if it resulted in the death of such mother shall be deemed
 114 manslaughter. A person who unlawfully kills an unborn quick
 115 child by any injury to the mother which would be manslaughter if
 116 it resulted in the mother's death commits manslaughter, a felony
 117 of the second degree, punishable as provided in s. 775.082, s.
 118 775.083, or s. 775.084.



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119 (3) The death of the mother resulting from the same act or
 120 criminal episode which caused the death of the unborn quick
 121 child shall not bar prosecution under this section.

122 (4) This section does not authorize the prosecution of any
 123 person in connection with a termination of pregnancy pursuant to
 124 chapter 390.

125 Section 5. Paragraph (g) of subsection (3) of section
 126 921.0022, Florida Statutes, is amended to read:

127 921.0022 Criminal Punishment Code; offense severity
 128 ranking chart.--

129 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(g) LEVEL 7
316.193(3)(c)	3rd	DUI resulting in serious bodily injury. 2.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920(2)	3rd	Medicaid provider fraud.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession



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			without a license which results in serious bodily injury.
137	458.327(1)	3rd	Practicing medicine without a license.
138	459.013(1)	3rd	Practicing osteopathic medicine without a license.
139	460.411(1)	3rd	Practicing chiropractic medicine without a license.
140	461.012(1)	3rd	Practicing podiatric medicine without a license.
141	462.17	3rd	Practicing naturopathy without a license.
142	463.015(1)	3rd	Practicing optometry without a license.
143	464.016(1)	3rd	Practicing nursing without a license.
144	465.015(2)	3rd	Practicing pharmacy without a license.
145	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
146	467.201	3rd	Practicing midwifery without a license.
147	468.366	3rd	Delivering respiratory care services without a license.
148	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
149	483.901(9)	3rd	Practicing medical physics without a



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			license.
150	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
151	484.053	3rd	Dispensing hearing aids without a license.
152	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
153	560.123(8)(b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter.
154	560.125(5)(a)	3rd	Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
155	655.50(10)(b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
156	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
157	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of



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158	782.071 <u>(1)</u>	2nd	another (manslaughter). Killing of human being or <u>unborn quick child</u> viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
159	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
160	784.045(1)(a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
161	784.045(1)(a) 2.	2nd	Aggravated battery; using deadly weapon.
162	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
163	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
164	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
165	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
166	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
167	784.081(1)	1st	Aggravated battery on specified official



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			or employee.
168	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
169	784.083(1)	1st	Aggravated battery on code inspector.
170	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
171	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
172	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
173	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
174	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
175	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
176	796.03	2nd	Procuring any person under 16 years for prostitution.
177	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim



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			less than 12 years of age; offender less than 18 years.
178	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
179	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
180	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
181	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
182	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
183	812.014(2)(a)	1st	Property stolen, valued at \$100,000 or more; cargo stolen valued at \$50,000 or more; property stolen while causing other property damage; 1st degree grand theft.
184	812.014(2)(b)	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
185	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
186	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and



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			traffics in stolen property.
187	812.131(2)(a)	2nd	Robbery by sudden snatching.
188	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
189	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
190	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
191	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
192	827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
193	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
194	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
195	872.06	2nd	Abuse of a dead human body.
196	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a),



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197	893.13(1)(e)1.	1st	(2)(b), or (2)(c)4.) within 1,000 feet of a child care facility or school.
198	893.13(4)(a)	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
199	893.135(1)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
200	893.135(1)(b)	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
201	893.135(1)(c)	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
202	893.135(1)(d)	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
203	893.135(1)(e)	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
204	893.135(1)(f)	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
205	893.135(1)(g)	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
			Trafficking in flunitrazepam, 4 grams or



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1.a. more, less than 14 grams.

893.135(1)(h) 1st Trafficking in gamma-hydroxybutyric acid
1.a. (GHB), 1 kilogram or more, less than 5 kilograms.

893.135(1)(j) 1st Trafficking in 1,4-Butanediol, 1
1.a. kilogram or more, less than 5 kilograms.

893.135(1)(k) 1st Trafficking in Phenethylamines, 10 grams
2.a. or more, less than 200 grams.

896.101(5)(a) 3rd Money laundering, financial transactions
exceeding \$300 but less than \$20,000.

896.104(4)(a) 3rd Structuring transactions to evade
1. reporting or registration requirements,
financial transactions exceeding \$300
but less than \$20,000.

Section 6. This act shall take effect October 1, 2003, and shall apply to offenses committed on or after that date.